

Declaration and Power of Attorney for Patent Application

As a below named inventor, I hereby declare that:

My residence, post office address and citizenship are as stated below next to my name,

I believe I am the original, first and sole inventor (if only one name is listed below) or an original, first and joint inventor (if plural names are listed below) of the subject matter which is claimed and for which a patent is sought on the invention entitled

Method for Determining the Efficiency of Nucleic Acid Amplifications

the specification of which

(check one)

is attached hereto.

was filed on March 30, 2001 as
 Application Serial No. 09/823,712
 and was amended on _____ (if applicable).

was filed on _____ as
 PCT International Application Serial No. _____
 and was amended under PCT Article 19 on _____ (if applicable).

I hereby state that I have reviewed and understand the contents of the above identified specification, including the claims, as amended by any amendment referred to above.

I acknowledge the duty to disclose information which is material to patentability as defined in 37 CFR § 1.56.

I hereby claim foreign priority benefits under 35 U.S.C. § 119(a)-(d) or § 365(b) of any foreign application(s) for patent or inventor's certificate, or § 365(a) of any PCT International application which designated at least one country other than the United States, listed below and have also identified below, by checking the box, any foreign application for patent or inventor's certificate, or PCT International application having a filing date before that of the application on which priority is claimed.

Prior Foreign Application(s)			Priority Claimed		
<u>00 107 036.6</u> (Number)	<u>European Patent Office</u> (Country)	<u>31 March 2000</u> (Day/Month/Year Filed)	<input checked="" type="checkbox"/>	Yes	<input type="checkbox"/> No
<u>100 34 209.4</u> (Number)	<u>German Patent Office</u> (Country)	<u>13 July 2000</u> (Day/Month/Year Filed)	<input checked="" type="checkbox"/>	Yes	<input type="checkbox"/> No
<u>100 45 521.2</u> (Number)	<u>German Patent Office</u> (Country)	<u>13 September 2000</u> (Day/Month/Year Filed)	<input checked="" type="checkbox"/>	Yes	<input type="checkbox"/> No

I hereby claim the benefit under 35 U.S.C. § 119(e) of any United States provision application(s) listed below.

(Application No.)

(Filing Date)

(Application No.)

(Filing Date)

I hereby claim the benefit under Title 35, United States Code, § 120 of any United States application(s), or § 365(c) of any PCT International application designating the United States, listed below and, insofar as the subject matter of each of the claims of this application is not disclosed in the prior United States application in the manner provided by the first paragraph of Title 35, United States Code, § 112, I acknowledge the duty to disclose information which is material to patentability as defined in 37 CFR § 1.56 which became available between the filing date of the prior application and the national or PCT international filing date of this application:

(Application Serial No.)

(Filing Date)

(Status) (patented, pending, abandoned)

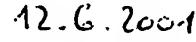
I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

POWER OF ATTORNEY: As a named inventor, I hereby appoint the practitioners at Customer No. 22829 to prosecute this application and transact all business in the Patent and Trademark Office connected therewith.

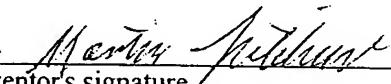
CORRESPONDENCE ADDRESS: Send Correspondence to Customer No. 22829.

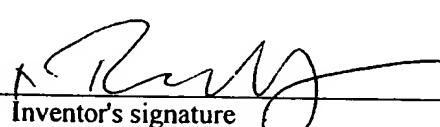
Direct Telephone Calls to: (name and telephone number)

Victor K. Lee, Ph.D. (510) 814-2966

Gregor Sagner	
Full name of sole or first inventor	
	
Inventor's signature	Date
Penzberg, Germany	
Residence	
German	
Citizenship	
Meichelbeckstrasse 16, D-82377 Penzberg, Germany	
Post Office Address	

Karim Tabiti	
Full name of second joint inventor, if any	
<input checked="" type="checkbox"/> 	Date
Inventor's signature	
3/6/2001	
Poecking, Germany	
Residence	
German	
Citizenship	
Gartenstrasse 26 C, D-82343 Poecking, Germany	
Post Office Address	

Martin Gutekunst	
Full name of third joint inventor, if any	
<input checked="" type="checkbox"/> 	Date
Inventor's signature	
12.6.2001	
Eberfing, Germany	
Residence	
German	
Citizenship	
Escherstrasse 12, D-82390 Eberfing, Germany	
Post Office Address	

Richie Soong	
Full name of fourth joint inventor, if any	
<input checked="" type="checkbox"/> 	Date
Inventor's signature	
12 JUNE 2001	
Tutzing, Germany	
Residence	
Australian	
Citizenship	
Beiselestrasse 1, D-82327 Tutzing, Germany	
Post Office Address	

- Title 37, Code of Federal Regulations, §1.56, duty to disclose information material to patentability provides, in part, that each individual associated with the filing and prosecution of a patent application has a duty of candor and good faith in dealing with the Office, which includes a duty to disclose to the Office all information known to that individual to be material to patentability as defined in this section. The duty to disclose information exists with respect to each pending claim until the claim is cancelled or withdrawn from consideration, or the application becomes abandoned.

Under this section, information is material to patentability when it is not cumulative to information already of record or being made of record in the application, and

- (1) It establishes, by itself or in combination with other information, a prima facie case of unpatentability of a claim; or
- (2) It refutes, or is inconsistent with, a position the applicant takes in:
 - (i) Opposing an argument of unpatentability relied on by the Office, or
 - (ii) Asserting an argument of patentability.